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February 24, 2022

VIA CM/ECF

Honorable Roslynn R. Mauskopf
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

**In Re: Doe v. Holy Bagel Café II et.al.
Civ Case # 15-CV-03620-RMM**

**In Re: Doe v. Sanchez
Adv. Pro, # 19-08125-LAS**

Dear Judge Mauskopf:

This office represents Ludwin Sanchez a/k/a Roberto Sanchez, Defendant in the above referenced District Court Action (the "District Court Action"). The Plaintiff, Jane Doe, is represented by the Law Firm of Certain & Zilberg, PLLC.

Subsequent to the commencement of the District Court Action, the Defendant, Ludwin Sanchez, filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code on June 28, 2019. The Bankruptcy Case is presently pending before the United States Bankruptcy Court, Eastern District of New York, under Bankruptcy Case Number 8-19-74698-LAS. Ludwin Sanchez is the Chapter 7 Debtor (the "Debtor") in the Bankruptcy matter.

On or about October 1, 2019, Jane Doe, the Plaintiff in the District Court Action, filed an Adversary Proceeding in Ludwin Sanchez's Bankruptcy case entitled *Jane Doe v. Ludwin Sanchez*, Adversary Proceeding Number 19-08125-LAS (the "Adversary Proceeding")

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The Adversary Proceeding commenced by Jane Doe seeks to object to the dischargeability of debt under 11 U.S.C. Section 523(a)(6). The underlying facts of this Adversary Proceeding are laid out in the complaint filed in a District Court Action entitled *Doe v. Holy Bagel Café II et al* Civil No. 15-3620. The Plaintiff, Jane Doe, alleged that from the period of September 1, 2013 to February 23, 2014, the Debtor reportedly sexually harassed her. The District Court Action also alleges causes of action against the Debtor/Defendant for the state/common law intentional tort causes of action of assault, battery and false imprisonment/wrongful detention. The Debtor, by his attorneys, Young & Young, LLP, filed an Answer in the District Court Action dated February 4, 2016 which contained denials and eight affirmative defenses. Essentially, Jane Doe seeks a determination that any judgment entered in her favor in the District Court Action be deemed non-dischargeable in her Adversary Proceeding.

The District Court Action was unresolved as of the date of the Debtor/Defendant's Bankruptcy filing on June 28, 2019. During the Adversary Proceeding, the Bankruptcy Judge, The Honorable Louis A. Scarcella, by Order of the Bankruptcy Court entered on December 16, 2019 (the "December 16 Order"), allowed the automatic stay to be vacated to the extent applicable so as to allow the District Court Action to proceed. A copy of the December 16 Order is enclosed.

We recently contacted Mr. Young, Ludwin Sanchez's counsel in the District Court Action, for a status of this matter. Unfortunately, it does not appear that a settlement is forthcoming at this time.

We are writing this letter solely to advise the Court that the Adversary Proceeding against our client Ludwin Sanchez is still pending in the Bankruptcy Court. It has been established by precedent that only the United States Bankruptcy Court is the sole authority to determine whether Plaintiff Jane Doe's claims are non-dischargeable under 11 U.S.C. Section 523(a)(2)- for false pretenses, false representation or actual fraud 523(a)(4)- for fraud or defalcation while

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acting in a fiduciary capacity, embezzlement, or larceny or 523 (a)(6)- for willful and malicious injury by the Debtor to another entity or to the property of another entity. See *In re Wisell*, 494 B.R. 23, 34 (Bankr.E.D.N.Y. 2011) citing *Grogan v. Garner*, 498 U.S. 279, 283–84, 111 S.Ct. 654, 112 L.Ed.2d 755 (1991) (“The validity of a creditor's claim is determined by rules of state law ... Since 1970, however, the issue of nondischargeability has been a matter of federal law governed by the terms of the Bankruptcy Code”) (citing *Vanston Bondholders Protective Comm. v. Green*, 329 U.S. 156, 67 S.Ct. 237, 91 L.Ed. 162 (1946), and *Brown v. Felsen*, 442 U.S. 127, 99 S.Ct. 2205, 60 L.Ed.2d 767 (1979)). Accord *In re DiGeronimo* 354 B.R. 625, 639 (Bankr E.D.N.Y. 2006).

So as to not prejudice our client, Ludwin Sanchez’s rights in the Adversary Proceeding, we respectfully request that the District Court refrain from making any determinations of non-dischargeability against Ludwin Sanchez in the District Court Action.

Thank you for your Honor’s Time.

Respectfully submitted,

By: 

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Ludwin Sanchez